

# Water Quality Standards

## Designated Uses

Ellen Weitzler  
Water Quality Standards Coordinator  
EPA Region 1

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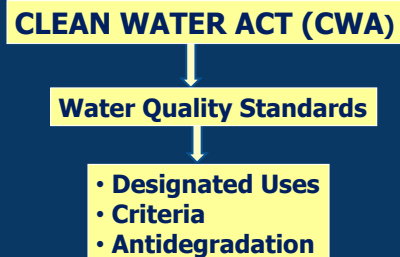
## Clean Water Act



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## Why are Designated Uses Important?

- Getting water quality standards right is critical to achieving CWA goals and restoring water quality
- Getting WQS right starts with getting designated uses right



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## Terminology

**Designated Uses**: those uses specified in state or tribal water quality standards regulations for each water body or segment, whether or not they are being attained.

- “goals” for a waterbody
- Are accompanied by narrative or numeric criteria needed to protect use

**Existing Uses**: those uses actually attained in a waterbody on or after November 28, 1975, whether or not they are included in the water quality standards

- cannot be removed
- Are usually a subset of designated uses

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## National Goal Uses

CWA 101(a): sets a goal for, where attainable, water quality which provides for the **protection and propagation of fish, shellfish and wildlife**, and **recreation in and on the water** (*fishable /swimmable*)

- 40 CFR §131 establishes a “rebuttable presumption” that national goal uses (fishable/swimmable) are attainable
- Removal of a national goal use must be justified according to rigorous specific criteria in the regulations

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## Non-national Goal Uses: Statute and Regulation

CWA 303 (c)(2)(a): water quality standards shall serve the purposes of the [Act] and consider the use and value for public water supplies, propagation of fish and wildlife, recreational, agricultural, industrial and other purposes

- Removal of non-national goal uses does not require rigorous justification.

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## Designated Use “Musts” (1)

### 40 CFR 131.10(a)

Specify appropriate water uses to be achieved and protected

- Consistent with CWA 101(a) and 303(c)

Protect uses that can be achieved, at a minimum, by the imposition of:

- Technology based effluent limits on point sources and
- Cost effective and reasonable best management practices on non point sources

Provide for the attainment and maintenance of the water quality standards of downstream waters (40 CFR 131.10(b))

Provide an opportunity for a public hearing when adding or removing uses, or establishing subcategories (40 CFR 131.10(e))

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## Designated Use “Must NOTs” (1)

- Provide for waste transport or assimilation as a designated use (40 CFR 131.10(a))
- Be removed if they are an existing use (unless adding a use with a more stringent criteria) (40 CFR 131.10(g))
- Be less than those specified by CWA 101(a) (unless supported by a UAA) (40 CFR 131.10(j)(1))
- Adopt sub-categories of such a use with less stringent criteria, without a UAA (40 CFR 131.10(j)(2))

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## Designated Use “Mays” (1)

- Protect uses higher than those currently being achieved
- Adopt sub-categories of a use
  - appropriate criteria may be set to reflect the “varying needs” of such uses
  - when adopting subcategories with less stringent criteria, a UAA is required

### **40 CFR 131.10(c)**

- Adopt seasonal uses **40 CFR 131.10(f)**
- Be removed (with supported UAA) **40 CFR 131.10(j)**

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## Factors for Changing a Use

### **40 CFR 131.10(g)**

- Naturally occurring pollutant
- Natural, ephemeral, intermittent of low flow conditions
- Human caused conditions
- Dam, diversions other types of hydrological modifications
- Physical conditions
- Economic and social impact

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## Categories of Uses

- Protection and Propagation of fish, shellfish and wildlife
- Recreation in and on the water
- Public Water Supply
- Agricultural
- Industrial
- Navigation
- Other Purposes

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## Other Designated Uses

- Ceremonial Uses
- Shellfish Grazing Areas
- Wildlife Protection
- Endangered Species Protection
- Drinking Water Source Protection
- Hydroelectric Power

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## Sub-Categories of Uses (1): CWA 101(a)

- Protection and propagation of fish, shellfish and wildlife:
  - Simple
    - Coldwater fishery/Warmwater fishery
  - Complex
    - Biological criteria in Ohio and Maine

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## Sub-Categories of Uses (2): CWA 101(a)

- Recreation in and on the water
  - Primary Contact Recreation
  - Secondary Contact Recreation (after UAA)
  - Seasonal Primary Contact Recreation
  - CSO-impacted waters (after UAA)

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## Refining Uses With More Specific Subcategories (1)

- Classification based on natural differences in expected condition:
  - Lakes and Streams
  - Ecoregions
- Classification based on intensity of use
  - Low Frequency Swimming Area

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## Refining Uses With More Specific Subcategories (2)

- Different expectations because of human caused conditions
  - Urban Spillway
- Advantage: Better describe use allowing tailored criteria for more specific levels of protection

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## Aquatic Life Example

- Ecoregionalization
  - Waters from different ecoregions have different biological communities
- Classification
  - Different types of surface waters have different biological communities
- Tiering
  - Waters with different degrees of modification may have different expectations for the biological community